

AMENDED IN ASSEMBLY JULY 13, 2009

AMENDED IN ASSEMBLY JULY 8, 2009

AMENDED IN ASSEMBLY JUNE 30, 2009

AMENDED IN ASSEMBLY JUNE 18, 2009

AMENDED IN SENATE MAY 4, 2009

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 300

Introduced by Senator Yee

(Coauthor: Assembly Member Torlakson)

February 25, 2009

An act to amend Sections 1130, 1156.6, 1157.1, 1171.5, 1176, 1190, and 1196 of the Harbors and Navigation Code, relating to harbors and ports, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 300, as amended, Yee. Harbors and ports: Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun: pilotage rates: continuing education.

(1) Existing law provides for the regulation and licensing of pilots for the Bays of San Francisco, San Pablo, Suisun, and Monterey by the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. Existing law requires the board to adopt standards and a training program for pilots, inland pilots, and pilot trainees.

This bill would instead require the board to adopt training standards and a training program for pilot trainees, and continuing education standards and a continuing education program for pilots and inland

pilots. The bill would require that fees from the surcharge for each movement of a vessel using pilot services used for a training program for pilots and inland pilots be used instead to fund a pilot and inland pilot continuing education program.

(2) Existing law provides that all records of the board relating to the personal information of a pilot are confidential and shall not be open to public inspection.

This bill would include within that provision personal information of an inland pilot, a pilot trainee, and an applicant to the pilot training program.

(3) Existing law specifies the rates of pilotage for vessels entering or leaving Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun through the Golden Gate Bridge. Existing law establishes the mill rate chargeable to those vessels and authorizes that rate to be changed under certain circumstances, including when the number of licensed pilots is reduced to 60 pilots or falls below 60 pilots.

This bill would eliminate the general requirement to change the rate under certain circumstances and instead require that the mill rate in effect on January 1, 2006, be changed, as provided, if the number of pilots licensed by the board is fewer than 60. The bill would also provide that these new requirements would become inoperative if on or after January 1, 2010, the number of pilots licensed by the board is equal to or greater than 60.

(4) Existing law also imposes an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the Board of Pilot Commissioners to recover the pilots' costs of obtaining new pilot boats and of funding design and engineering modifications for the purposes of extending the service life of existing pilot boats, excluding costs for repair or maintenance.

This bill would also require, until January 1, 2011, a movement fee as is necessary and authorized by the board to be paid as a navigation technology surcharge in order to recover the pilots' costs for the purchase, lease, or maintenance of navigation software, hardware, and ancillary equipment purchased after November 5, 2008, and before January 1, 2011.

Existing law requires that all moneys received by the Board of Pilot Commissioners pursuant to the provisions of any law shall be paid into the State Treasury to the credit of the Board of Pilot Commissioners' Special Fund and are continuously appropriated to the board for the

payment of the compensation and expenses of the board and its officers and employees.

By increasing the amount of revenue deposited into a continuously appropriated fund and by authorizing the expenditure of money in that fund for a new purpose, the bill would make an appropriation.

(5) The bill would also make technical changes.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1130 of the Harbors and Navigation Code
2 is amended to read:

3 1130. (a) A majority of all of the pilots licensed by the board
4 shall appoint one pilot to act as port agent to carry out the orders
5 of the board and other applicable laws, and to otherwise administer
6 the affairs of the pilots. The appointment is subject to the
7 confirmation of the board.

8 (b) The port agent shall be responsible for the general
9 supervision and management of all matters related to the business
10 and official duties of pilots licensed by the board.

11 (c) The port agent shall immediately notify the executive director
12 of the board of a suspected violation, navigational incident,
13 misconduct, or other rules violation that is reported to him or her
14 or to which he or she is a witness. The board shall adopt regulations
15 for the manner and content of a notice provided pursuant to this
16 section.

17 SEC. 2. Section 1156.6 of the Harbors and Navigation Code
18 is amended to read:

19 1156.6. (a) Whenever suspected safety standard violations
20 concerning pilot hoists, pilot ladders, or the proper rigging of pilot
21 hoists or pilot ladders are reported to the board, the executive
22 director shall assign a commission investigator to personally inspect
23 the equipment for its compliance with the relevant safety standards
24 promulgated by the United States Coast Guard and the International
25 Maritime Organization. The commission investigator shall report
26 preliminary conclusions, including an assessment of the
27 equipment's compliance with the relevant safety standards, to the
28 executive director as soon as possible. If, in the preliminary report,
29 the equipment is found to be in violation, or in likely violation in

1 the opinion of the commission investigator, of the relevant safety
2 standards, the executive director shall immediately alert the
3 cognizant United States Coast Guard office. The commission
4 investigator shall submit a written report to the incident review
5 committee as established by subdivision (a) of Section 1180.3 that
6 shall remain confidential until reported to the board. The incident
7 review committee, in turn, shall report its findings and
8 recommendations, if any, to the board. The board shall receive the
9 incident review committee's findings, which may include other
10 reports, information, or statements from interested parties. The
11 board shall specify, by regulation, the information that shall be
12 contained in the report.

13 (b) This section applies to the pilotage grounds, as defined in
14 Section 1114.5. Whenever a vessel passes outside of the pilotage
15 grounds, the commission investigator's report shall include that
16 fact along with a description of the incident.

17 (c) The record of the investigation and the board's findings and
18 recommendations, if any, shall be a public record maintained by
19 the board.

20 SEC. 3. Section 1157.1 of the Harbors and Navigation Code
21 is amended to read:

22 1157.1. (a) Except as provided in Section 1157.4, all records
23 of the board relating to the personal information of a pilot, an
24 inland pilot, a pilot trainee, or an applicant to the pilot trainee
25 training program are confidential and shall not be open to public
26 inspection.

27 (b) For purposes of this section, "personal information" means
28 information, other than the name and mailing address, that
29 identifies an individual, including an individual's photograph,
30 social security number, address, telephone number, and medical
31 or disability information, but does not include other information
32 related to licensing such as incidents, rules or safety violations,
33 misconduct, training records, commendations, and license status.

34 SEC. 4. Section 1171.5 of the Harbors and Navigation Code
35 is amended to read:

36 1171.5. (a) The board shall adopt, by regulation, licensing
37 standards that equal or exceed standards for obtaining federal
38 endorsements and that conform with and support the state policy
39 specified in Sections 1100 and 1101.

1 (b) The board shall adopt reasonable rules and regulations that
2 require pilots to be qualified to perform all pilot duties.

3 (c) The board shall adopt, by regulation, training standards and
4 a training program for pilot trainees, and continuing education
5 standards and a continuing education program for pilots and inland
6 pilots. In the case of pilot trainees, the training program shall be
7 for a minimum of one year and a maximum of three years. In the
8 case of pilots and inland pilots, the board shall specify the type,
9 nature, duration, and frequency of the continuing education
10 required and the identity of the pilots or inland pilots who are
11 required to undergo continuing education in the next 12-month
12 period. Pursuant to Section 1182, the license of a pilot or an inland
13 pilot may be revoked or suspended if he or she fails to complete
14 the continuing education required by this subdivision during the
15 period specified. The board shall also require that an evaluation
16 of the pilot's or inland pilot's performance be prepared by the
17 institution selected by the board to provide pilot continuing
18 education, and the institution shall provide copies of the evaluation
19 to the pilot or inland pilot and to the pilot evaluation committee.

20 (d) The board shall adopt, by regulation, the qualifications,
21 standards, and rating criteria for admission of pilot trainees to the
22 training program. Notwithstanding subdivision (f), the board shall
23 administer and conduct the pilot trainee admission selection in
24 accordance with the regulations for admission.

25 (e) The board shall establish a pilot evaluation committee
26 consisting of five active pilots who each have at least 10 years'
27 experience as a pilot on the Bays of San Francisco, San Pablo, and
28 Suisun. The board shall select the members of the pilot evaluation
29 committee. A member may not serve for more than two four-year
30 terms, except that two of the initial members appointed to the pilot
31 evaluation committee shall serve terms of two years.

32 (f) The pilot evaluation committee shall conduct and supervise
33 the training and continuing education programs pursuant to the
34 direction and regulation of the board and consistent with the intent
35 of this division.

36 (g) The board shall issue a certificate of completion to each
37 pilot trainee who satisfactorily completes the training program.
38 The board shall not issue a pilot's license to any person who does
39 not receive a certificate of completion of the training program from

1 the board, although the board may refuse to issue a pilot license
2 to a pilot trainee who has received this certificate.

3 (h) The training program for pilot trainees and the continuing
4 education program for pilots and inland pilots shall be funded from
5 revenues collected for these purposes as determined by the board
6 pursuant to Sections 1195 and 1196 and deposited into the Board
7 of Pilot Commissioners' Special Fund pursuant to Section 1159.

8 SEC. 5. Section 1176 of the Harbors and Navigation Code is
9 amended to read:

10 1176. (a) The board shall appoint a physician or physicians
11 who are qualified to determine the suitability of a person to perform
12 his or her duties as a pilot, an inland pilot, or a pilot trainee in
13 accordance with subdivision (c).

14 (b) An applicant for a pilot trainee position or for a pilot license,
15 as well as a pilot or an inland pilot seeking renewal of his or her
16 license shall undergo a physical examination by a board appointed
17 physician in accordance with standards prescribed by the board.
18 Within 30 days prior to the examination, the applicant or licensee
19 shall submit to the physician conducting the physical examination
20 a complete list of all prescribed medications being taken by or
21 administered to the applicant or licensee.

22 (c) On the basis of both the examination and an evaluation of
23 the effects of the prescription medications named on the submitted
24 list, the physician shall designate to the board whether or not the
25 pilot, inland pilot, or pilot trainee is fit to perform his or her duties
26 as a pilot, an inland pilot, or a pilot trainee.

27 (d) The license of a pilot or an inland pilot shall not be renewed
28 unless he or she is found fit for duty pursuant to subdivision (c).

29 (e) Whenever a pilot, an inland pilot, or a pilot trainee is
30 prescribed either a new dosage of a medication or a new
31 medication, or suspends the use of a prescribed medication, he or
32 she shall, within 10 days, submit that information to the board
33 appointed physician having possession of the prescribed medication
34 list submitted pursuant to subdivision (b). Whenever the physician
35 receives the updated information, the physician shall determine
36 whether or not the medication change affects the licensee's or
37 trainee's fitness for duty. If the physician determines that the
38 medication change results in the pilot, inland pilot, or pilot trainee
39 being unfit for duty, the physician shall inform the board.

(f) The board may terminate a pilot trainee or suspend or revoke the license of a pilot or an inland pilot who fails to submit the prescribed medication information required by this section.

SEC. 6. Section 1190 of the Harbors and Navigation Code is amended to read:

1190. (a) Every vessel spoken inward or outward bound shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) Eight dollars and eleven cents (\$8.11) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 73.01 mills per high gross registered ton as changed pursuant to law in effect on December 31, 1999. The mill rates established by this paragraph may be changed as follows:

(A) (i) On and after January 1, 2010, if the number of pilots licensed by the board is 58 or 59 pilots, the mill rate in effect on December 31, 2006, shall be decreased by an incremental amount that is proportionate to one-half of the last audited annual average net income per pilot for each pilot licensed by the board below 60 pilots.

(ii) On and after January 1, 2010, if the number of pilots licensed by the board is fewer than 58 pilots, the mill rate in effect on December 31, 2006, shall be adjusted in accordance with the method described in clause (i) as though there are 58 pilots licensed by the board.

(iii) The incremental mill rate adjustment authorized by this subparagraph shall be calculated using the data reported to the board for the number of gross registered tons handled by pilots licensed under this division during the same 12-month period as the audited annual average net income per pilot. The incremental ~~immediately following quarter, commencing January 1, April 1, July 1, or October 1, as directed by quarter (January 1, April 1, July 1, or October 1), as directed by the board.~~ *mill rate adjustment shall become effective at the beginning of the immediately following quarter, commencing January 1, April 1, July 1, or October 1, as directed by the board.*

(iv) On and after January 1, 2010, if, during any quarter described in this paragraph, the number of pilots licensed by the board is equal to or greater than 60, clauses (i) to (iii), inclusive,

1 shall become inoperative on the first day of the immediately
2 following quarter.

3 (B) There shall be an incremental rate of additional mills per
4 high gross registered ton as is necessary and authorized by the
5 board to recover the pilots' costs of obtaining new pilot boats and
6 of funding design and engineering modifications for the purposes
7 of extending the service life of existing pilot boats, excluding costs
8 for repair or maintenance. The incremental mill rate charge
9 authorized by this subparagraph shall be identified as a pilot boat
10 surcharge on the pilots' invoices and separately accounted for in
11 the accounting required by Section 1136. Net proceeds from the
12 sale of existing pilot boats shall be used to reduce the debt on the
13 new pilot boats and any debt associated with the modification of
14 pilot boats under this subparagraph. The board may adjust a pilot
15 boat surcharge to reflect any associated operational savings
16 resulting from the modification of pilot boats under this
17 subparagraph, including, but not limited to, reduced repair and
18 maintenance expenses.

19 (C) In addition to the incremental rate specified in subparagraph
20 (B), the mill rate established by this subdivision may be adjusted
21 at the direction of the board if, after a hearing conducted pursuant
22 to Article 9 (commencing with Section 11120) of Chapter 1 of
23 Part 1 of Division 3 of Title 2 of the Government Code, the board
24 determines that there has been a catastrophic cost increase to the
25 pilots that would result in at least a 2-percent increase in the overall
26 annual cost of providing pilot services.

27 (2) A minimum charge for bar pilotage shall be six hundred
28 sixty-two dollars (\$662) for each vessel piloted.

29 (3) The vessel's deepest draft shall be the maximum draft
30 attained, on a stillwater basis, at any part of the vessel during the
31 course of such transit inward or outward.

32 (b) The rate specified in subdivision (a) shall apply only to a
33 pilotage that passes through the Golden Gate to or from the high
34 seas to or from a berth within an area bounded by the Union Pacific
35 Railroad Bridge to the north and Hunter's Point to the south. The
36 rate for pilotage to or from the high seas to or from a point past
37 the Union Pacific Railroad Bridge or Hunter's Point shall include
38 a movement fee in addition to the basic bar pilotage rate as
39 specified by the board pursuant to Section 1191.

1 (c) The rate established in paragraph (1) of subdivision (a) shall
2 be for a trip from the high seas to dock or from the dock to high
3 seas. The rate specified in Section 1191 shall not be charged by
4 pilots for docking and undocking vessels. This subdivision does
5 not apply to the rates charged by inland pilots for their services.

6 (d) The board shall determine the number of pilots to be licensed
7 based on the 1986 manpower study adopted by the board.

8 (e) Consistent with the board's May 2002 adoption of rate
9 recommendations, the rates imposed pursuant to paragraph (1) of
10 subdivision (a) that are in effect on December 31, 2002, shall be
11 increased by 4 percent on January 1, 2003; those in effect on
12 December 31, 2003, shall be increased by 4 percent on January 1,
13 2004; those in effect on December 31, 2004, shall be increased by
14 3 percent on January 1, 2005; and those in effect on December 31,
15 2005, shall be increased by 3 percent on January 1, 2006.

16 (f) (1) There shall be a movement fee as is necessary and
17 authorized by the board to recover a pilot's costs for the purchase,
18 lease, or maintenance of navigation software, hardware, and
19 ancillary equipment purchased after November 5, 2008, and before
20 January 1, 2011.

21 (2) The software, equipment, and technology covered by this
22 subdivision shall be used strictly and exclusively to aid in piloting
23 on the pilotage grounds. The movement fee authorized by this
24 subdivision shall be identified as a navigation technology surcharge
25 on a pilot's invoices and separately accounted for in the accounting
26 required by Section 1136. The board shall review and adjust as
27 necessary the navigation technology surcharge at least quarterly.
28 This subdivision shall become inoperative on January 1, 2011.

29 SEC. 7. Section 1196 of the Harbors and Navigation Code is
30 amended to read:

31 1196. (a) In addition to other fees for pilotage, there shall be
32 a surcharge in an amount established by the board for each
33 movement of a vessel using pilot services for the pilot and inland
34 pilot continuing education program established by the board.

35 (b) The moneys charged and collected each month from the
36 pilot and inland pilot continuing education program surcharge shall
37 be paid to the board. The moneys shall be used only to fund the
38 pilot and inland pilot continuing education program in the manner
39 established by the board.

- 1 (c) By action of the board, the board may adjust the amount
- 2 established pursuant to subdivision (a) as necessary to efficiently
- 3 administer the pilot and inland pilot continuing education program.

O